

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PAUL LEHRMAN and LINNEA SAGE, on behalf  
of themselves and all others similarly situated, and  
JOHN DOE and others similarly situated,

Plaintiffs,

v.

LOVO, INC.,

Defendant.

No. 1:24-cv-03770 (JPO)

**DECLARATION IN SUPPORT OF  
DEFENDANT’S MOTION TO DISMISS THE AMENDED CLASS ACTION  
COMPLAINT**

WILLIAM W. BERGESCH, an attorney duly admitted to practice before this Court hereby declares subject to the penalties of perjury:

1. I am an associate at Rimon, P.C., and counsel for defendant Lovo, Inc. (“Defendant”) in this action. I make this Declaration based on my personal knowledge, including my review of documents and videos referenced in the Amended Class Action Complaint (the “Amended Complaint”), and without intention or effect of waiving or compromising any privilege or immunity.

2. I submit this declaration in support of Defendant’s Motion to Dismiss the Amended Class Action Complaint (“Motion”). The exhibits attached hereto, and videos described herein are submitted because they are referenced in the Amended Complaint and/or were relied upon by Plaintiffs in the Amended Complaint.

3. Attached hereto as Exhibit 1 is a true and correct copy of information available on the United States Copyright Office website (<https://cocatalog.loc.gov/cgi-bin/Pwebrecon.cgi?v1=2&ti=1,2&Search%5FArg=Lehrman%2C%20Paul&Search%5FCode=NA&CNT=25&PID=54MhWC8nS8JizxTV7UsRWhXsJs18C&SEQ=20241111125940&SID=6> ]) about Plaintiff Paul Lehrman (“Lehrman”)’s Copyright Registration # SRu001583006, as referenced at Paragraph 56 of the Amended Complaint. I accessed the website as depicted in the annexed exhibit on November 20, 2024.

4. Attached hereto as Exhibit 2 is a true and correct copy of information available on the United States Copyright Office website (<https://cocatalog.loc.gov/cgi-bin/Pwebrecon.cgi?v1=1&ti=1,1&Search%5FArg=Lehrman%2C%20Paul&Search%5FCode=NA&CNT=25&PID=ALfp5tpEns1qxUNixlEbz-yQINCWH&SEQ=20241111130148&SID=7> ]) about Lehrman’s Copyright Registration # SRu001583972, as referenced at Paragraph 56 of the Amended Complaint. I accessed the website as depicted in the annexed exhibit on November 20, 2024.

5. Attached hereto as Exhibit 3 is a true and correct copy of information available on the United States Copyright Office website (<https://cocatalog.loc.gov/cgi-bin/Pwebrecon.cgi?v1=1&ti=1,1&Search%5FArg=Sage%2C%20Linnea&Search%5FCode=NA&CNT=25&PID=t5rDEZm5eZleRgO-orKtkiVBoxyig&SEQ=20241111130529&SID=12> ]) about Plaintiff Linnea Sage’s (“Sage”) Copyright Registration # SRu001580410, as referenced at Paragraph 83 of the Amended Complaint. I accessed the website as depicted in the annexed exhibit on November 20, 2024.

6. Attached hereto as Exhibit 4 is a true and correct copy of the Fiverr Terms of Service page that was available on the Fiverr website on May 18, 2020 (available at:

[https://web.archive.org/web/20200518191314/https://www.fiverr.com/terms\\_of\\_service?source=footer](https://web.archive.org/web/20200518191314/https://www.fiverr.com/terms_of_service?source=footer)). Fiverr is discussed throughout the Amended Complaint (e.g., ¶¶44-47, 54, 60-62, 71, 76, 78, 82, 84, 100, 111-116, 119, 277). I accessed the website as depicted in the annexed exhibit on November 20, 2024.

7. Attached hereto as Exhibit 5 is a true and correct copy of the Fiverr Terms of Service page available that was available on the Fiverr website on October 29, 2019 (available at [https://web.archive.org/web/20191029174822/https://www.fiverr.com/terms\\_of\\_service?source=footer](https://web.archive.org/web/20191029174822/https://www.fiverr.com/terms_of_service?source=footer)). I accessed the website as depicted in the annexed exhibit on November 20, 2024.

8. I reviewed the video referenced in Paragraphs 87-89 of the Amended Complaint with the link presented at Paragraph 89 note 14 of the Amended Complaint on November 20, 2024. The video, as a whole, is 5 minutes and 7 seconds long and the portion alleged to be Sage's actual recorded voice consists of 13 words and occurs from approximately 2:14-2:18.

9. I reviewed the video referenced in Paragraph 92 of the Amended Complaint with the links presented at Paragraph 92 note 16 of the Amended Complaint on November 20, 2024. The video, as a whole, is 14 minutes and 40 seconds long and the portion alleged to be Sage's actual recorded voice occurs from approximately 3:47-4:10. However, at 4:17-4:24 of the video, the speaker states about the voice just played "That is a computer, yeah."

10. I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 25, 2024  
Jericho, New York

RIMON, P.C.

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